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0000013071

BEFORE THE ARIZONA CORPORATION COMMISSION

25p

COMMISSIONERS

2004 NOV -5 A 11:13

MARC SPITZER, Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
MIKE GLEASON  
KRISTIN K. MAYES

AZ CORP COMMISSION  
DOCUMENT CONTROL

IN THE MATTER OF:

DOCKET NO. S-03437A-03-0000

TIERRA GROUP, aka TIERRA GROUP  
PROPERTIES, aka TIERRA GROUP COMPANIES,  
aka TIERRA GROUP, INC.  
10105 East Via Linda Drive, Ste. 103-330  
Scottsdale, AZ 85258

Arizona Corporation Commission

**DOCKETED**

NOV - 5 2004

DOCKETED BY

CAL

PRESERVATION TRUST CORPORATION, aka  
PRESERVATION CORPORATION, aka  
PRESERVATION TRUST COMPANY,  
10105 East Via Linda Drive, Ste. 103-330  
Scottsdale, AZ 85258

PARTNERSHIP PRESERVATION TRUST, aka  
PARTNERSHIP PRESERVATION  
CORPORATION LIMITED PARTNERSHIP  
10105 East Via Linda Drive, Ste. 103-330  
Scottsdale, AZ 85258

CATERPILLAR FOUNDATION PROPERTIES,  
aka CATERPILLAR FOUNDATION PROPERTIES  
LIMITED PARTNERSHIP  
10105 East Via Linda Drive, Ste. 103-330  
Scottsdale, AZ 85258

RENE L. COUCH, a married man  
10727 East Palm Ridge Drive  
Scottsdale, AZ 85259

TERRY COUCH, a married woman  
10727 East Palm Ridge Drive  
Scottsdale, AZ 85259

Respondents.

**FOURTH**  
**PROCEDURAL ORDER**

**BY THE COMMISSION:**

On February 3, 2003, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing Regarding Proposed Order to Cease and Desist, Order for Restitution, Order for Administrative Penalties, and for Other

1 Affirmative Action ("Notice") against Tierra Group, aka Tierra Group Properties, aka Tierra Group  
2 Companies, aka Tierra Group, Inc., Preservation Trust Corporation, aka Preservation Corporation,  
3 aka Preservation Trust Company, Partnership Preservation Trust, aka Partnership Preservation  
4 Corporation Limited Partnership, Caterpillar Foundation Properties, aka Caterpillar Foundation  
5 Properties Limited Partnership, Rene L. Couch and Terry Couch (collectively "Respondents"), in  
6 which the Division alleged multiple violations of the Arizona Securities Act ("Act") in connection  
7 with the offer and sale of securities by fraudulent transactions.

8 The Respondents were duly served with a copy of the Notice.

9 On February 3, 2003, a request for hearing was filed for Mr. Couch.

10 On February 19, 2003, by Procedural Order, a pre-hearing conference was scheduled.

11 On March 12, 2003, a pre-hearing conference was held with the Division present with  
12 counsel. Mr. John Augustine, counsel for Mr. Rene Couch, was present and indicated that he had  
13 accepted service for the other entities that are participants in an involuntary bankruptcy proceeding in  
14 U.S. Bankruptcy Court where other counsel are involved. Although Mrs. Terry Couch was served  
15 with a copy of the Notice, she has not requested a hearing.

16 Counsel for the Division and Mr. Couch indicated that they are conducting settlement  
17 discussions, but stipulated that an additional pre-hearing conference should be scheduled in April,  
18 2003, in the event that the matter is not resolved.

19 On March 12, 2003, by Procedural Order, a pre-hearing conference was scheduled for April  
20 30, 2003.

21 On April 30, 2003, at the pre-hearing conference, the Division was present with counsel.  
22 Neither Mr. Couch nor any other Respondent entered an appearance or filed an Answer to the Notice.  
23 Counsel for the Division indicated that the Division had been unable to contact counsel for Mr.  
24 Couch, and that the matter was further complicated by the involuntary bankruptcy proceeding. The  
25 proceeding was recessed pending further action by the Division.

26 On October 7, 2004, the Division filed what was captioned "Motion to Recognize Securities  
27 Division Allegations as Admitted" ("Motion") which requests that the allegations stated in the Notice  
28 be admitted as fact due to the failure of Mr. Couch or any other Respondent to file a timely Answer to

1 the Notice. The Division acknowledged that it delayed its filing to allow Respondents time to  
2 address the problems arising from the involuntary bankruptcy proceeding from which disbursements, if  
3 any are made, will be disbursed. The Division indicated that the Motion had been served personally  
4 and also mailed to the individual Respondents on October 7, 2004. No Responses have been filed to  
5 the Division's Motion.

6 On October 28, 2004, by Procedural Order, the Division's Motion was granted.

7 On October 29, 2004, a new attorney for Respondent Rene L. Couch filed the following: a  
8 notice of appearance and request for hearing; an Answer to the Notice; and a Response to the  
9 Division's Motion arguing that Mr. Couch would be denied due process of law if he was not  
10 permitted to file his Answer and defend himself against the allegations contained in the Notice.

11 Accordingly, the Third Procedural Order approving the Division's Motion should be vacated  
12 and a pre-hearing conference scheduled.

13 IT IS THEREFORE ORDERED that the Third Procedural Order which approved the  
14 Division's Motion is vacated.

15 IT IS FURTHER ORDERED that a pre-hearing conference shall be held on November 18,  
16 2004, at 11:30 a.m., at the Commission's offices, 1200 West Washington Street, Phoenix, Arizona.

17 DATED this 5<sup>TH</sup> day of November, 2004.

  
18  
19  
20 MARC E. STERN  
ADMINISTRATIVE LAW JUDGE

21 Copies of the foregoing mailed/delivered  
22 this 5 day of November, 2004 to:

23 John R. Augustine  
24 The Citadel, Ste. 300  
25 2727 North Third Street  
Phoenix, AZ 85004-1106  
Attorney for Respondent Rene L. Couch

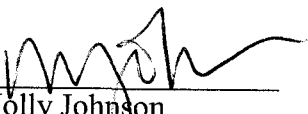
26 John F. Goodson  
27 Goodson and Manley, PLC  
28 2025 North Third Street, Ste. 200  
Phoenix, AZ 85004  
Attorney for Respondent Rene L. Couch

1 Terry G. Couch  
2 9821 E. Mirasol Circle, #2191  
3 Scottsdale, AZ 85260

4 Matt Neubert, Director  
5 Securities Division  
6 ARIZONA CORPORATION COMMISSION  
7 1300 West Washington Street  
8 Phoenix, AZ 8500

9 ARIZONA REPORTING SERVICE  
10 2627 N. Third Street, Ste. Three  
11 Phoenix, AZ 85004-1003

12 By:

13   
14 Molly Johnson  
15 Secretary to Marc E. Stern  
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